IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 8779 of 2006(T)

PETITIONER:

SHRI.A.M. HAREES, AGED 35 YEARS,
S/O. A.M. HANEEFA RAWTHER,
MADEENA, MANGARAM, PANDALAM P.O.,
PIN-689 501, PATHANAMTHITTA DISTRICT.
UPPER DIVISION CLERK, BLOCK DEVELOPMENT OFFICE
PANDALAM.

BY ADV. SRI.GEORGE CHERIAN
SRI.R.SREERAJ

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED**
BY ITS SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF RURAL DEVELOPMENT
THIRUVANANTHAPURAM.

2. **THE COMMISSIONER FOR RURAL DEVELOPMENT**
COMMISSIONERATE OF RURAL DEVELOPMENT
LMS COMPOUND, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.8779/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTIFICATION NO.15506/ESTT/C1/2001/CRD DT. 18.6.04 ISSUED BY THE 2ND RESPONDENT.

EXT.P2:- COPY OF THE REPRESENTATION DT. 10.1.05 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE JUDGMENT DT. 26.9.05 IN WPC. 22526/05 ON THE FILE OF THIS HONOURABLE COURT.

EXT.P4:- COPY OF THE NOTIFICATION NO.22181/ESTT./C1/01/CRD DT. 7.12.05 ISSUED BY THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE ORDER NO.ESTT C4/22181/2005/CRD DT. 18.2.06 ISSUED BY THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE G.O.(MS) NO.56/85/RDD DT. 1.11.1985 REFERRED TO IN EXT.P5. ORDER.

RESPONDENTS EXHIBITS

EXT.R2(a):- COPY OF THE LETTER NO.22181/ESTT. C4/2005/CRD DT. 6.3.06.

/TRUE COPY/

P.A. TO JUDGE

V.GIRI, J.

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W.P.(C)No.8779 of 2007

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Dated this the 18th day of December 2007

JUDGMENT

Petitioner is working as an Upper Division Clerk in the Rural Development Department. Ext.P1 notification was issued by the Commissioner for selection to the post of Junior Lecturer (Rural Engineering) in the Extension Training Centre. Applications were invited only from persons in the field staff of the Commissionerate of the Department of Rural Development. As noted above, the petitioner is working as an Upper Division Clerk in the Ministerial Wing, but they are not eligible. Petitioner therefore approached the Commissioner for taking appropriate action to see that the staff in the Ministerial Wing are also eligible to apply for the post. Petitioner possess the educational qualification mentioned in Ext.P1. By Ext.P3 judgment, petitioner's representation was directed to be considered and it was so considered and disposed of under Ext.P5. Ext.P5 is under challenge in this writ petition.

2. On a reading of Ext.P5, it cannot be said that it is vitiated by any error apparent on the face of the record or any erroneous appreciation of law. It is noted therein that the petitioner's

application could not be considered because applications were invited under Ext.P1 only from Village Extension Officers and Lady Village Extension Officers. Applications were not invited from other categories. In the circumstances, non-consideration of the petitioner's application cannot be considered as illegal.

3. I should also note that Ext.P1 notification clearly provides that applications are invited from the field staff and not from the Ministerial cadre. Secondly, there is no challenge to Ext.P1 notification. Therefore the correctness of Ext.P1 cannot be gone into in these proceedings. In the circumstances, I am not in a position to interfere with Ext.P6.

4. Notwithstanding the above position, in Ext.P5 as well as in the counter affidavit, reference is made to a clarification sought for from the Government as to the possibility for revising the method of appointment to the post of Junior Lecturer. Ext.R2(a) is the communication addressed in this regard by the Commissioner to the Government. In Ext.P5 it is mentioned that the petitioner's case shall be taken up, once the clarification is received. Submission is recorded.

5. In the circumstances, the writ petition is disposed of directing the first respondent to take a decision on Ext.R2(a), at the

earliest , at any rate, within a period of two months from the date of receipt of a copy of this judgment. If the decision of the Government is to invite applications from persons in the Ministerial cadre in the Rural Development Department also, obviously, petitioner's case shall be considered in accordance with law. In the facts and circumstances of the case, government shall hear the petitioner before a decision is taken on Ext.R2(a).

V.GIRI, JUDGE

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